

S/N 10/624,333
Ref. No.: 659-1095

REMARKS

About the Title:

Applicants have amended the title to be commensurate with the elected claims 1-14.

About the Claim Objections:

Applicants have amended claim 12 as suggested by the Examiner to improve the clarity and form thereof.

Applicants submit that claim 14 is clear and does not need amendment. In particular, claim 13, from which claim 14 depends, recites “at least one fastener member connected to at least one of said front and rear body panels and releasably engaging the other of said front and rear body panels,” meaning one or more fastener members are connected to one or both of the front and rear body panels and releasably engage the other (or both) of the front and rear body panels. For example and without limitation, one fastener could be connected to the front body panel and one fastener connected to the rear body panel, with both fasteners releasably engaging the other rear and front body panels respectively.

Claim 14 further defines the invention by reciting that the “at least one fastener member comprises a pair of fastener members connected to said at least one of said front and rear body panels along one of said pair of opposite laterally spaced first and second side edges.” In this way, the at least one fastener member now comprises a pair of fastener members connected to one of the front and rear body panels along the opposite side edges thereof. As such, claim 14 further defines the invention. The invention of claim 13 may be configured, for example and without limitation, with only a single fastener, while claim 14 requires at least a pair of fastener members. For these reasons, the language of claims 13 and 14 is clear and no amendment is needed to improve the clarity or form thereof.

About the Prior Art Rejections:

Claim 1:

The Examiner has rejected independent claim 1 as being anticipated by U.S. Patent No. 5,873,868 to Nakahata (Nakahata I) and WO 03/003961 A1 to Nakahata (Nakahata II).¹ Applicants submit that Nakahata I and II fail to disclose all of the recitations of claim 1, and that the rejections should be overcome for at least the following reasons.

As a threshold matter, claim 1 recites “a front body panel comprising a pair of opposite first laterally spaced side edges, a first waist edge and *a first crotch edge longitudinally spaced from said first waist edge*; a rear body panel comprising a pair of opposite laterally spaced second side edges, a second waist edge and *a second crotch edge longitudinally spaced from said second waist edge*, wherein *said first and second crotch edges are longitudinally spaced from each other.*”

In contrast, Nakahata I and II disclose absorbent articles having a chassis that runs from one waist edge of the garment to the other (Nakahata I at FIGS. 1, 2, 4; Col. 3, lines 3-50; Nakahata II at 1, 2, 4, and 5; page 4). Nowhere does Nakahata I or II disclose or suggest a three-piece garment having front and rear body panels with spaced apart “terminal crotch *edges*,” and a connecting crotch member.

Applicants note that the Examiner refers to the recitation in Nakahata I of first and second waist regions 46, 44 and a crotch region 48 (Col. 3, lines 22-25). Nowhere, however, does Nakahata disclose or suggest that those regions are bounded

¹ Applicants note that the Examiner did not specify which Nakahata reference (four Nakahata references have been cited by Applicants and the Examiner) was being applied under 35 USC 102(e) (Office Action at 9). Based on the information provided, Applicants have assumed that it is WO 03/003961 A1, which is more accurately applied under 35 USC 102(a). If Applicants' assumption is wrong, Applicants respectfully request that the Examiner properly identify the reference and issue another non-final Office Action, together with a new time period for response thereto.

by edges, or are formed from separate components. Indeed, the use of the term “region” denotes that a single panel is being described, not components having edges. Likewise, Nakahata II discloses that the “chassis layer 21 preferably comprises a continuous sheet or web which defines the first waist panel 43, the second waist panel 45 and the crotch panel 47 (Nakahata II at 6).²

In marked contrast, Nakahata I and II both disclose that the chassis has periphery defined by side edges 50 and end edges 52 (Nakahata I at Col. 3, lines 25-34; Nakahata II at page 4), demonstrating that Nakahata knew the meaning of the term “edge.” Revealingly, Nakahata I and II do *not* refer to the waist and crotch *regions* or panels as having any terminal crotch *edges* at the boundaries between those regions. Accordingly, the Examiner’s designation of a crotch edges E along theoretical lines is not supported by the cited references, but rather is merely speculative. Indeed, Applicants submit that Nakahata I and II teach against such a construction by reference to a continuous chassis that extends from one waist edge to the other.

For these reasons, Nakahata I and II fail to disclose all of the recitations of claim 1 and the Examiner should withdraw her rejections on this basis alone.

However, even if the theoretical lines drawn the Examiner are misconstrued as “edges,” there is no disclosure that the crotch member *covers* the at least one slit as recited in claim 1. In essence, the Examiner cannot have it both ways, if the edges E define the edge of the waist regions, then under the Examiner’s interpretation, the

² Nakahata II also discloses that the waist panel 43 may comprise only the outer sheet 23, while the other waist panel 45 and crotch panel 47 include the outer sheet 23 and inner sheet 26 (Nakahata II at 7). In this embodiment, all of the panels are made up of the outer sheet, which does not present any edges, and neither of the waist panels has a crotch edge. In another embodiment, Nakahata II discloses that the chassis layer 21 can comprises different pieces of material, but they are joined to form the continuous chassis layer, again without edges (Nakahata II at 7).

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edges E also define the edges of the crotch member (region 48 as applied by the Examiner in Nakahata I and panel 47 as applied by the Examiner in Nakahata II). Therefore, and contrary to the Examiner's assertion, the region 48 of Nakahata I clearly does not cover the slit formed in the theoretical edge of the waist region 46. Indeed it is not possible since the regions share the same edge and do not overlap.

Likewise, the crotch panel 47 of Nakahata II does not cover the slit formed in any theoretical edge of the crotch panel 43, since those panels also share the same edge and do not overlap. In essence, for the crotch member to *cover* the slit, it must necessarily extend past the edge of the waist region/panel. In both references, however, the chassis is continuous, and the crotch member, as applied by the Examiner, terminates at the edges of the front and rear waist regions.

Accordingly, Nakahata I and II fail to disclose or suggest all of the recitations of claim 1 for this additional reason.

Dependent Claims:

Although the dependent claims are allowable for all of the reasons set forth above, Applicants note the following additional reasons for patentability of various select claims. The discussion of these claims is not an admission that other claims not discussed herein are also not patentable for other reasons not discussed.

For example, and without limitation, and with reference to claim 2, it does not make sense that a crotch panel is "inherently connected" to a garment side of front and rear body panels, when the surfaces are admittedly formed as "continuous sheets" (Office Action at 6). There simply is no disclosure that the crotch member overlies and is connected to the *garment side* of the waist regions.

Likewise, with reference to claim 3, if the crotch member includes the top sheet and back sheet, then it is continuous with the waist regions and there is no "edges" that are covered by the crotch member.

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With reference to claim 5, there is no disclosure that the *folds* of the crotch portion are connected to the waist regions, as shown for example in FIGS. 26 and 27 of the present application. Indeed, the folds of Nakahata face away from the waist regions are not disposed adjacent to the waist regions, let alone connected thereto.

With reference to claims 7 and 8, there is absolutely no suggestion in the Nakahata references that the crotch member is connected to the waist regions in either a first or second condition. Indeed, as admitted by the Examiner, the regions/panels are formed from a continuous sheet – which teaches against such an invention. If something is continuous, then a portion of it cannot be attached to itself when in another condition. Moreover, for something to be inherent, it must necessarily happen every time. In the present case, there is absolutely no support (express or implied) for such an assertion, i.e., that a crotch portion is secured to a waist portion in a certain condition, let alone that it happens every time!

New claims 28-31 further distinguish over the cited references and are fully supported by the specification, including the drawings.

CONCLUSION:

After Amendment, this application has eighteen (18) claims, including one (1) independent claim. Applicants previously paid for twenty-seven (27) claims including three (3) independent claims. Accordingly, no additional fees are believed to be due. However, any additional payments or overpayments associated with this Response should be charged or credited respectively to Deposit Account No. 23-1925.

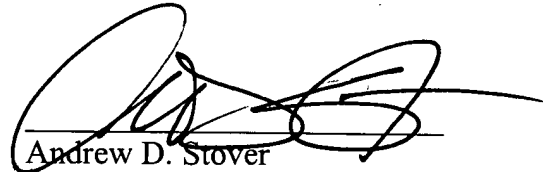
If for any reason this application is not considered to be in condition for allowance and an interview would be helpful to resolve any remaining issues, the Examiner is respectfully requested to call the undersigned attorney at (312) 321-4713.

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Respectfully Submitted,

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By:

A handwritten signature in black ink, appearing to read 'Andrew D. Stover', written over a horizontal line.

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